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In re Application of: **Nesper, et al.**  
Application No.: **10/731,284**  
Filed: **December 9, 2003**  
For: **IMPLANT FOR FIXING ADJACENT BONE PLATES**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Art Unit: **3775**  
Examiner: **R. Shaffer**

Sir:

Transmitted herewith is:

- ☒ [X] A Response After Final in the above-identified application (8 pages);
- ☒ [X] Return receipt postage prepaid postcard;
- ☒ [X] I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: **Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 17, 2009.**

The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 50-0625.

Very truly yours,

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Attorney Docket No.: **HOE-790**



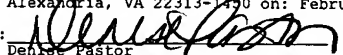
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Signature:   
Denise Pastor

**RESPONSE AFTER FINAL**

Dear Sir:

This Response is responsive to the final Office Action mailed on December 23, 2008.

**Summary**

Claims 1, 3, 5-18, 22, and 24-33 are pending. Claims 25, 26 and 29-33 are withdrawn.

Claims 1, 3, 5-18, 22, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lerch (DE 199 52 359 - hereinafter "Lerch DE") in view of Lerch (US 6,068,631 - hereinafter "Lerch US"). Claims 1, 3, 5-18, 22, 24, 27, and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lerch DE in view of Golds (US 5,356,412).

Applicants respectfully traverse these rejections in view of the following comments.

**Discussion of Rejection based on Lerch DE in view of Lerch US**

Independent claim 1 is rejected as being unpatentable over Lerch DE in view of Lerch US. Lerch DE (DE 199 52 359) has a U.S. counterpart, US 2002/0156475 as identified in